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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,162	02/13/2002	Jason A. Fredrickson	60208-300901	8631

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INTELLECTUAL PROPERTY LAW OFFICE
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CAMPBELL, CA 95008

EXAMINER

TRUONG, LECHI

ART UNIT PAPER NUMBER

2194

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,162

Applicant(s)

FREDRICKSON ET AL.

Examiner

LeChi Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-25 are presented for the examination.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 16-25 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.

3. Claim 16 is directed to method steps, which can be practiced mentally in conjunction with pen and paper, therefore they are directed to non-statutory subject matter. Specifically, as claimed, it is uncertain what performs each of the claimed method steps. Moreover, each of the claimed steps, constructing, assigning, storing can be practiced mentally in conjunctions with pen and paper. The claimed steps do not define a machine or computer implemented process (see MPEP 21061). Therefore, the claimed invention is directed to non-statutory subject matter. (The examiner suggests applicant to change "method" to "computer implemented method" in the preamble to overcome the outstanding 35 U.S.C. 101 rejection).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 6-12, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basani et al (US. Patent 6,748, 447 B1).

5. As to claim 1, Basani teaches the invention substantially as claimed including: a data object (the assignment, col 5, ln 48-51/ col 16, ln 37-42), a owning node (a staging server, col 5, ln 15-20/ col / the CCM is at the root 601, col 16, ln 33-35), a computerized owning node that owns the data object (col 5, ln 15-20/ col 16, ln 33-38), a plurality of computerized neighbor nodes (a plurality of GLs 603,605, col 16, ln 33-40/ Fig. 1/6), said owning node and said neighbor nodes are distinct and are collectively members of a network in which they have peer-to-peer status(col 16, ln 33-40/ Fig. 1/6), a plurality of possessing node(the remote or backend server, col 5, ln 45-50/ the root 605 A, 605 B, 605 C/ each Gl, col 16, ln 37-47), a plurality of possessing nodes that store the data object (col 16, ln 37-47), wherein said plurality of possessing nodes is a subset of said plurality of said neighbor nodes(col 16, ln 33-40/ Fig. 1/6), storing the data object away from its said owning node(col 16, ln 33-37). Basani does not explicit teach the term security storing. However, Basani teaches security storing (the assignment itseft, or any of its components can be encrypted prior to transmission/ cool 5, ln 64-67). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to apply the teaching of Basani because Basani's security storing would increase the distribution security and efficiency of Basani's system by allowing significant improvements in synchronization of

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content received by groups of remote server to enhance security including privacy or integrity or both.

6. **As to claim 6**, Basani teaches an indexing node to store information about said neighbor nodes, wherein said indexing node is also a member of said network (col 16, ln 10-15).

7. **As to claim 7**, Basani teaches indexing node assigns said plurality of neighbor nodes to said owning node (col 16, ln 50-55).

8. **As to claim 8**, neighbor nodes each log into said indexing node when joining said network (col 19, ln 63-66), and said information stored by said indexing node includes the current known availability of respective said neighbor nodes (col 16, ln 8-15).

9. **As to claim 9**, Basani teaches plurality of possessing nodes assigned to store the data object are chosen based on said information about availability of said neighbor nodes (col 6, ln 6-15).

10. **As to claims 10, 11**, Basani teaches indexing node provides said information about availability of said neighbor nodes to said owning node/ owning node chooses said plurality of possessing nodes assigned to store the data object (col 16, ln 10-15).

11. **As to claims 12**, Basani teaches backup node stores a copy of the data object (col 5, ln 47-52), an alternate for retrieving the data object than said possessing nodes (col 5, ln 60-64).

12. **As to claim 16**, it is an apparatus claim of claim 1; therefore, it is rejected for the same reason as claim 1 above. In additional, Basani teaches constructing (designation, col 14, ln 1-10).

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13. Claims **2-5, 13-15, 17-19, 20-25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Basani et al (US. Patent 6,748, 447 B1), as applied to claim 1 above, in view of Hirata et al (Us. Patent 5,748,893).

14. **As to claim 2**, Basani teaches wherein a data piece derived from the data object is assigned to be stored by each said possessing node (col 3, ln 13-17/ ln 48-55).

15. Basani does not teach each said data piece is all or part of the data object and all said data pieces assemble into the whole of the data object. However, Hirata teaches each said data piece is all or part of the data object and all said data pieces assemble into the whole of the data object (these divided sending units are assembled as one united data and then sent to the network, col 2, ln 30-35).

16. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Basani and Hirata because Hirata's a data piece derived from the data object is assigned to be stored by each said possessing node would improve the reliability of Basani's system by allowing the data which is judged as earlier arrived data is sent to the network terminal.

17. **As to claim 3**, Hirata teaches permitting comparison to determine if security of any said data piece has been compromised (col 2, ln 30-35).

18. **As to claim 4**, Hirata teaches data pieces may each be assembled from less than all of said multiple data from which they are respectively derived (col 2, ln 30-35/ col 6, ln 50-57).

19. **As to claim 5**, Basani teaches one-thousand said neighbor nodes are assigned to said owning node to be said plurality of neighbor nodes (col 16, ln 35-40/ Fig. 1/6), twenty said data

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shares derived from each said data piece are assigned to said possessing nodes for storage (col 3, ln 12-28), and Hirata teaches at least three said data shares must be assembled (col 2, ln 30-35/ col 6, ln 50-57).

20. As to claims 13, 14, they are apparatus claims of claims 2, 3; therefore, they are rejected for the same reasons as claims 2, 3 above.

21. As to claim 15, Hirata teaches backup data piece is used in place of one said peer data piece when any said peer data piece is deemed untrustworthy or unavailable (col 6, ln 43-46).

22. As to claims 17-19, they are apparatus claims of claims 2,3, 4; therefore, they are rejected for the same reasons as claims 2,3, 4 above.

23. As to claims 20-25, they are apparatus claims of claims 5, 9-12; therefore, they are rejected for the same reasons as claims 5, 9-12 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is (571) 272 3767. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

LeChi Truong

June 15, 2005


MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
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